

REMARKS

In the Official Letter, the Examiner subjected Claims 1-11 to a restriction, requiring Applicants to make an election to continue with the prosecution of one of 8 species, namely:

Species I., as illustrated in Fig. 2.

Species II., as illustrated in Fig. 3.

Species III., as illustrated in Fig. 4.

Species IV., as illustrated in Fig. 5.

Species V., as illustrated in Fig. 6-7.

Species VI., as illustrated in Fig. 8.

Species VII., as illustrated in Fig. 9-11.

Species VIII., as illustrated in Fig. 12.

The election requirement is respectfully traversed for the reasons set forth herein.

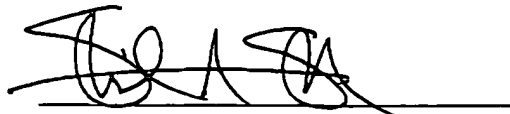
There are two criteria for a proper requirement for restriction: (1) the inventions subject to the restriction must be independent or distinct as claimed; and (2) there must be a serious burden on the Examiner if restriction is required. See 35 U.S.C. §121 and MPEP §803(A). The term "independent" (i.e. not dependent) means that there is no disclosed relationship between the two or more subjects disclosed. The term "distinct" means that two or more subjects as disclosed are patentable (novel and unobvious) over each other. See MPEP §802.01. In the instant application, the control valves shown are directed to both normally open and normally closed valves. Applicants acknowledge and agree with the Examiner's finding that each of the species are patentably distinct. However, even though the application includes patentably distinct species of the inventions, if the search and examination of an entire application can be made without serious burden, the Examiner must examine the application on the merits. See MPEP §803.

The Examiner stated that Claims 1-11 are generic to Species I, III, VI, VII and VIII, all of which are species directed towards a normally open control valve for a vehicular braking system. Since the claims directed towards each species contain subject matter that is common to each of the species, searching the subject matter of the claims with respect to Species I, III, VI, VII and VIII would not be a serious additional burden for the Examiner beyond that required for searching a single one of these species. The normally open control valves described as a part of Applicants' invention would typically be similarly classified, and therefore the Examiner should extend his search for the subject matter of each of the claims to each species anyway. For at least these reasons, Applicants' respectfully request that the Election Requirement be withdrawn with respect to Species I, III, VI, VII and VIII.

Additionally, Applicants note that, as indicated by the Examiner, pending Claims 1-11 are also generic to a normally closed control valve as described with respect to Species II, IV and V. Applicants believe that the prior art for the various species of normally closed valves would also be similarly classified. Therefore, Applicants additionally believe that the burden of considering these additional species would not be substantial, and request that the Examiner also reconsider the restriction requirement with respect to Species II, IV, and V.

In the event that the Examiner does not find Applicants' arguments persuasive, Applicants provisionally elect to continue with the prosecution of Species VIII, Claims 1-11, which are directed toward a normally open control valve for a vehicular braking system.

Respectfully submitted,



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